

April 18, 2006

To: Chair Randolph, Commissioners Downey, Blair, Huguenin, and Remy
Subject: Pirayou Opinion Request (0-06-016)

RESOLVED
FAIR POLITICAL
PRACTICES COMMISSION
2006 APR 19 PM 1:

I'm concerned about the apparent direction the Fair Political Practices Commission is headed regarding Mr. Pirayou's opinion request.

The primary responsibility of the Fair Political Practices Commission is the impartial, effective administration ... of the Political Reform Act. (Law Section 83111) If you approve an opinion that allows only Ms. Corbett to break the law, you've abandoned the "impartial" provision of your responsibilities.

The law allows that any person may request the Commission to issue an opinion with respect to their duties under the law. (Section 83114(a)) Advice issued by the FPPC must also be written with respect to a person's duties under the law. (Section 83114(b)) There are no provisions in the law authorizing the Commission to issue any opinion allowing someone to circumvent the law. Ms. Corbett's duties under the law are clear. The Commission's opinion must state her duties under the law.

The law must stand. When there's a conflict between advice and the law, the law prevails. When there's a conflict between FPPC information manuals and the law, the law must be sustained. If there's a conflict between an opinion and the law, the law must be the deciding factor.

In this case, the law is clear. It is illegal for Ms. Corbett to use the surplus funds for purposes other than those listed in the law. If an opinion states otherwise, it will not make her use of the funds legal, it will simply give her a "pass" regarding any FPPC enforcement action. The law still stands.

It seems that ex-legislator Corbett wants to break the law and she wants your approval. Her argument is that she tried over and over again to get her funds transferred, but her treasurer overruled her and said, "No!" She offers her efforts as a reason to grant her request. I haven't heard anyone express any doubt about her efforts. She was, at the time, an Assemblywoman, a person in authority, and she knows how to administer. I'm not convinced that she made any efforts. According to her Statement of Organization, her committee was "controlled" by her. She was in charge. I find it hard to accept that when the Assemblywoman told her treasurer to transfer funds, her subordinate treasurer refused and Ms. Corbett just quietly walked away and accepted it.

On the other hand, if she did attempt to get the funds transferred, it's indicative that she must have known they were up against some deadline. Otherwise, why keep asking? In either case, she was responsible and now she needs to follow the law.

Another argument offered is that her circumstances just aren't fair. They offer, as a good reason to adopt the requested opinion, that it will be so narrowly written as to prevent this

sort of thing from happening again. They offer the narrowness as a good reason. It strikes me that, if the opinion is drafted so narrowly, they will be the only ones who will be able to break the law. No one else will be able to keep their surplus funds, but Ms. Corbett will be able to keep hers. She wants special dispensation. She wants to be the only one who gets special treatment. If you ask me, that's not fair! It's not fair to any of the other folks who violated the law, whether intentionally, negligently, or ignorantly, and were not granted special dispensation, but had to pay hefty fines.

She also says her circumstances are unusual. The truth is, her circumstances are repeated over and over in the Enforcement cases. Common explanations are "I relied on my treasurer" and "I relied on my attorney" and "I didn't understand the law."
(Recommended reading: past Enforcement cases.)

Let Ms. Corbett use the legal methods available to her under the law. If she's being honest about "voter education", there's a remedy within the law. Let her give the funds to the party of her choice. Voter education is what they do best. Problem solved.

Someone reminded me a quote by Michael Josephson, founder of the Josephson Institute of Ethics in Los Angeles:

"Anybody has to have a right to change its rules. ... The real question is the motivation. It is not generally good policy to want to change an important policy like that just because you don't like the way it works in a particular instance."

Thanks for listening.

Respectfully submitted,



Jerry Nottleson

A Concerned California Citizen

(This letter is written on my own time. These are my own thoughts as a concerned citizen. They are not in any way associated with my employment with the Franchise Tax Board.)